

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK CITY DISTRICT
COUNCIL OF CARPENTERS
PENSION FUND, et al.

Petitioner,

07 Civ. 3798(PKC)

-against-

DARTZ AND MATZ INCORPORATED,

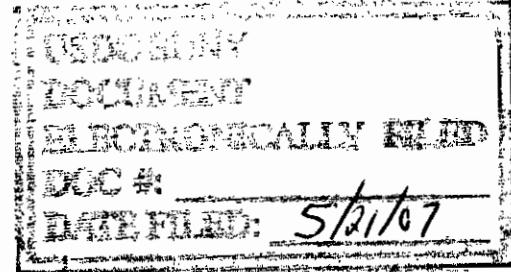
ORDER

Respondent.
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P. KEVIN CASTEL, U.S.D.J.

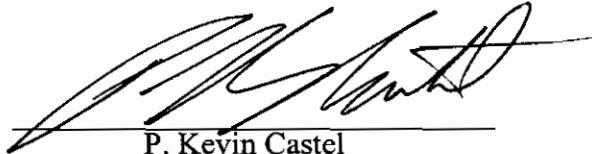
On September 5, 2006, the United States Court of Appeals for the Second Circuit held in D.H. Blair & Co., Inc. v. Gottdiener, 462 F.3d 95, 109 (2d Cir. 2006), that “default judgments in confirmation/vacatur proceedings are generally inappropriate.” Instead, the Court should consider the merits of the petition on the basis of the record before it. Id. “A motion to confirm or vacate an award is generally accompanied by a record, such as an agreement to arbitrate and the arbitration award decision itself, that may resolve many of the merits or at least command judicial deference. When a court has before it such a record, rather than only the allegations of one party found in complaints, the judgment the court enters should be based on the record.” Id.

The Petition annexes the Arbitration Award. Petitioner shall serve and file by June 8, 2007, the Collective Bargaining Agreement setting forth the agreement to arbitrate, the record before the arbitrator to the extent not already submitted, an affidavit establishing personal jurisdiction over respondent and a brief memorandum in support of the petition. Respondent shall respond within thirty (30) days of service with the summons and petition or



July 9, 2007, whichever is later. If no response is served and filed, petitioner's counsel should alert the Court and the Court will proceed to adjudicate the petition on the merits. If a response is served and filed, then petitioner will have ten (10) days thereafter to reply.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
May 21, 2007